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10 **UNITED STATES DISTRICT COURT**
11 **NORTHERN DISTRICT OF CALIFORNIA**

12 ELECTRONIC FRONTIER)
13 FOUNDATION,)
14 Plaintiff,)
15 vs.) Case No.: CV 14-3010-JCS
16 NATIONAL SECURITY AGENCY,)
17 OFFICE OF THE DIRECTOR OF) **ANSWER**
18 NATIONAL INTELLIGENCE,
Defendants.)

19 Defendants, the National Security Agency (“NSA”) and the Office of the Director of
20 National Intelligence (“ODNI”) (collectively “the government”), by and through undersigned
21 counsel, hereby answer the Complaint in the above-captioned action. The following responses
22 correspond to the numbered paragraphs in the Complaint filed by Plaintiff, Electronic Frontier
23 Foundation.

24
25 1. Paragraph 1 contains Plaintiff’s characterizations of this lawsuit and conclusions
26 of law, not allegations of fact, and thus no response is required. To the extent a response is
27

1 deemed necessary, the government denies Plaintiff's characterizations except to admit that this
2 action was brought under the Freedom of Information Act ("FOIA"). The government
3 respectfully refers the Court to the statutory and regulatory provisions cited in Paragraph 1 for a
4 full and complete statement of their contents.

5 **PARTIES**

6 2. The government lacks sufficient knowledge or information to form a belief as to
7 the truth of the allegations in Paragraph 2.

8 3. The government admits the allegations in the first sentence of Paragraph 3. The
9 second sentence of Paragraph 3 contains a conclusion of law, not allegations of fact, and thus no
10 response is required. The government respectfully refers the Court to the cited statutory
11 provision for a full and complete statement of its contents.

12 4. The government admits the allegations in the first sentence of Paragraph 4. The
13 second sentence of Paragraph 4 contains a conclusion of law, not allegations of fact, and thus no
14 response is required. The government respectfully refers the Court to the cited statutory
15 provision for a full and complete statement of its contents.

16 **JURISDICTION**

17 5. Paragraph 5 contains a conclusion of law, not allegations of fact, and thus no
18 response is required. The government respectfully refers the Court to the statutory provision
19 cited in Paragraph 5 for a full and complete statement of its contents.

1 VENUE AND INTRADISTRICT ASSIGNMENT

2 6. Paragraph 6 contains a conclusion of law, not allegations of fact, and thus no
3 response is required. The government respectfully refers the Court to the statutory provisions
4 cited in Paragraph 6 for a full and complete statement of their contents.

5 7. Paragraph 7 contains a conclusion of law, not allegations of fact, and thus no
6 response is required. To the extent a response is deemed necessary, the government denies that a
7 substantial portion of the events giving rise to this action occurred in the District of San
8 Francisco. The government respectfully refers the Court to the Local Rule cited in Paragraph 7
9 for a full and complete statement of its contents.

10 FACTUAL ALLEGATIONS

11 8. Paragraph 8 contains Plaintiff's characterizations of the public discussion on the
12 government's intelligence gathering practices, not allegations of fact, and thus no response is
13 required.

14 9. Paragraph 9 contains Plaintiff's characterizations of the public discussion on the
15 government's intelligence gathering practices, not allegations of fact, and thus no response is
16 required.

17 10. Paragraph 10 contains Plaintiff's characterizations of a *New York Times* and
18 *Forbes* article, not allegations of fact, and thus no response is required. To the extent a response
19 is deemed necessary, the government denies those characterizations and respectfully refers the
20 Court to the articles cited in Footnote 1 of the Complaint for a full and complete statement of
21 their contents.

11. Paragraph 11 contains Plaintiff's characterizations of a December 2013 report issued by the Review Group on Intelligence and Communications Technologies, not allegations of fact, and thus no response is required. To the extent a response is deemed necessary, the government denies those characterizations and respectfully refers the Court to the report cited in Footnote 2 of the Complaint for a full and complete statement of its contents.

12. Paragraph 12 contains Plaintiff's characterizations of an article entitled *Why the Web Needs Perfect Forward Secrecy More Than Ever*, not allegations of fact, and thus no response is required. To the extent a response is deemed necessary, the government denies those characterizations and respectfully refers the Court to the article cited in Footnote 3 of the Complaint for a full and complete statement of its contents.

13. Paragraph 13 contains Plaintiff's characterizations of a *Bloomberg* article, not allegations of fact, and thus no response is required. To the extent a response is deemed necessary, the government denies those characterizations and respectfully refers the Court to the article cited in Footnote 4 of the Complaint for a full and complete statement of its contents.

14. Paragraph 14 contains Plaintiff's characterizations of a public statement of the ODNI, not allegations of fact, and thus no response is required. To the extent a response is deemed necessary, the government denies those characterizations and respectfully refers the Court to the public statement cited in Footnote 5 of the Complaint for a full and complete statement of its contents.

15. Paragraph 15 contains Plaintiff's characterizations of a blog post by the White House Cybersecurity Coordinator, not allegations of fact, and thus no response is required. To the extent a response is deemed necessary, the government denies those characterizations and

1 respectfully refers the Court to the blog post cited in Footnote 6 of the Complaint for a full and
2 complete statement of its contents.

3 16. The government admits the allegations in Paragraph 16.

4 17. The government denies the allegations in Paragraph 17 except to admit that

5 Plaintiff requested expedited processing of its FOIA request dated May 6, 2014.

6 18. The government admits the allegations in Paragraph 18.

7 19. The government admits the allegations in the first sentence of Paragraph 19. The
8 government denies the allegations in the second sentence of Paragraph 19 except to admit that
9 NSA denied Plaintiff's request for expedited processing.

10 20. The government admits the allegations in Paragraph 20.

11 21. The government admits the allegations in Paragraph 21.

12 22. The government denies the allegations in Paragraph 22 except to admit that the
13 government has not produced any documents responsive to Plaintiff's FOIA request.

14 23. The government denies the allegations in Paragraph 23.

15 24. Paragraph 24 contains a conclusion of law, not allegations of fact, and thus no
16 response is required.

17 25. Paragraph 25 contains a conclusion of law, not allegations of fact, and thus no
18 response is required.

22 CAUSES OF ACTION

23 26. The government repeats and realleges the responses to Paragraph 1 through 25 as
24 if fully stated herein.

25 27. The government denies the allegations in Paragraph 27.

28. The government denies the allegations in Paragraph 28.

29. The government repeats and realleges the responses to Paragraph 1 through 25 as if fully stated herein.

30. The government denies the allegations in Paragraph 30.

31. Paragraph 31 contains a conclusion of law, not allegations of fact, and thus no response is required.

32. The government denies the allegations in Paragraph 32.

REQUESTED RELIEF

The remaining paragraphs of the Complaint contain Plaintiff's prayer for relief, to which no response is required. To the extent a response is deemed necessary, the government denies that Plaintiff is entitled to the requested relief.

The government denies any and all allegations not expressly admitted herein to which a response is required.

AFFIRMATIVE DEFENSES

1. Plaintiff did not effect proper service of the Complaint on Defendants.

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Deputy Branch Director
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/s/ Jacqueline Coleman Snead

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Defendants' Answer

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